

but that Committee Substitute adopted in lieu thereof do pass and be printed.

HARDEMAN, Chairman.

C. S. H. B. No. 7 was read the first time.

**Communication from
Mrs. John Foster Dulles**

Senator Hardeman submitted the following communication received from Mrs. John Foster Dulles and by unanimous consent the communication was ordered printed in the Journal:

"Mrs. John Foster Dulles and her family thank you for your kind expression of sympathy."

Message from the Governor

The following message received from the Governor today was read and was referred to the Committee on Nominations:

Austin, Texas,
June 8, 1959.

To the Senate of the Fifty-sixth Legislature, First Called Session:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

To be District Attorney of the 106th Judicial District, to fill the unexpired term of Morgan L. Copeland, resigned, effective September 1, 1959: George H. Hansard of Lamesa, Dawson County.

Respectfully submitted,
PRICE DANIEL,
Governor of Texas.

Recess

On motion of Senator Hardeman the Senate at 10:50 o'clock a.m. took recess until 10:30 o'clock a.m. tomorrow

EIGHTH DAY

(Continued)

(Tuesday, June 9, 1959)

After Recess

The Senate met at 10:30 o'clock a.m. and was called to order by the President.

Senate Resolution 85

Senator Bradshaw offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Mr. and Mrs. L. L. LaRue and daughters, Misses Connie Lea, Karen Anne and Kay Beth of Denton, Texas; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Bradshaw by unanimous consent presented the guests to the Members of the Senate.

(Senator Fly in the Chair.)

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 9, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 21, In memory of Dr. O. M. Marchman.

S. C. R. No. 6, In memory of Mr. Ben E. Bradford.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Resolution 86

Senator Crump offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate Future Homemakers of America from Early High School, Brownwood, Texas, accompanied by their teacher, Mrs. Walter Dickens and a parent, Mrs. Wayne Roberts; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, proper-

ly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Crump by unanimous consent presented the students and their teacher and sponsor to the Members of the Senate.

Senate Resolution 87

Senator Hazlewood offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate the following group of 4-H Club members from Lipscomb County, Texas, namely, Lela Mae Koch, Karen Sue Laurie, Kathryn Lusetta Laurie, Carol DeAnne Pratt, Ernest Miller, and Ronnie Pratt, accompanied by the County Agent of Lipscomb County, Mr. Joe Hershey; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Hazlewood by unanimous consent presented the students and Mr. Hershey to the Members of the Senate.

(President in the Chair.)

Senate Resolution 88

Senator Reagan offered the following resolution:

Whereas, Throughout the ages man has been comforted, edified and entertained by the lyrics and odes of the psalmists and poets; and

Whereas, The inspirational value of poetry is recognized throughout the world as it strengthens the sympathies, expresses emotions, fires the imagination and brings spiritual peace to humanity; and

Whereas, The Legislature of the State of Texas, in cooperation with the Governor, in recognition of the contributions and as a tribute to the poets of the ages, have chosen Dr. Van Chandler of Kingsville, Texas, Poet Laureate for the State as a representative of this group; and

Whereas, Dr. Chandler typifies the esteem in which the poet is held in literature and as an influence for good upon the people; now, therefore, be it

Resolved, By the Senate of Texas, that this Body express its congratulations to Dr. Chandler on this achievement in his career and that copies of this Resolution be sent to him in recognition of this occasion.

REAGAN
FLY

The resolution was read and was adopted.

Senate Resolution 89

Senator Lane offered the following resolution:

Whereas, We are honored to have as visitors in the Senate the following members of the Fourth Grade of the Overton Public Schools: Johnny Branch, Clay Hall, Don Degeurin, Memory Streeter and Berry Wilson, accompanied by their sponsor, Mr. Clifton M. Tyler of Overton, Texas; and

Whereas, These students of today are the citizens, leaders and statesmen of tomorrow, who, with the acceptance of democracy's heritage, must carry on the responsibilities of self-government; and

Whereas, It is highly commendable that these young people are demonstrating, by their visit in the Senate, an interest in the processes of their State government; now, therefore, be it

Resolved, That the Senate take recognition of their visit; and that a copy of this Resolution, bearing the official seal of the Senate, be sent to them in appreciation of their visit.

LANE
HAZLEWOOD

The resolution was read and was adopted.

Senate Bills on First Reading

By unanimous consent the following bills were introduced, read first

time and referred to the committee indicated:

By Senator Fuller:

S. B. No. 14, A bill to be entitled "An Act authorizing the Texas Merit System Council, providing for appointment of its members, their terms of office, duties and remuneration; authorizing their power to promulgate rules and regulations, and to facilitate the execution of this Act, establishing an effective date of the Act, and declaring an emergency."

To the Committee on State Affairs.

By Senators Moore and Colson:

S. B. No. 15, A bill to be entitled "An Act validating the organization and creation of Brazos County Water Control and Improvement District, No. 1, Big Creek, of Brazos County, Texas; validating the confirmation, election of directors and proceedings in connection therewith; validating the area and boundary line of the district; providing that the ad valorem basis or plan of taxation shall be used by the district and that it shall not be necessary to hold a hearing on the adoption of a plan of taxation; declaring that the district is essential to the accomplishment of the purposes of Section 59, Article 16, of the Constitution of the State of Texas, and declaring the district to be a governmental agency, body politic; providing that the district shall have all rights, powers, privileges and duties of a local organization within the purview of Public Law 566, 83rd Congress, Chapter 656, Second Session, H. R. 6788, as amended by Public Law 1018, 84th Congress, Chapter 1027, Second Session, H. R. 8750, including the authority to secure federal loans and enacting the applicable provisions of said Public Laws into this Act; providing that the district is subject to statutes relating to water control and improvement districts unless otherwise provided; providing for levying, assessing and collecting annual taxes to provide funds necessary for construction, acquirement, maintenance and operation of certain works, plants and facilities and also for the levy, assessment and collection of annual taxes to provide funds adequate to defray the cost of maintenance, operation and administration of the district; authorizing the issuance of bonds in the accomplishment of the district's purposes and making such bonds eligible for certain invest-

ments and to secure deposits of public funds; exempting the district's bonds from taxation; enacting a savings clause; declaring the district essential; enacting other provisions relating to the subject and purpose of this Act; and declaring an emergency."

To the Committee on Water and Conservation.

By Senator Crump:

S. B. No. 16, A bill to be entitled "An Act granting additional powers to Concho County Water Control and Improvement District Number Two in Concho County, Texas; stating the effect of this Act; authorizing a special procedure for excluding lands from the District; authorizing and providing for ad valorem taxes for works, plant and facilities, and for maintenance, operation and administration of the District, and that all taxes shall constitute a lien and not be barred by limitations; making provisions relative to the exercise of the power of eminent domain, validating the organization and confirmation of the District; providing a severability clause; and declaring an emergency."

To the Committee on Water and Conservation.

Senate Resolution 90

Senator Fly offered the following resolution:

Whereas, A choice must be made between increasing State taxes and reducing State spending; and

Whereas, The total tax load is already so heavy that it makes it difficult to increase taxes; and

Whereas, The only alternative to the enactment of a sizable tax bill is a sizable reduction in State spending; and

Whereas, The Legislature representing the people of Texas should have a clear choice between more taxes or less spending, so that the decision on how the State budget is to be balanced can be made advisedly; now, therefore, be it

Resolved, by the Senate of the State of Texas, That the Legislative Budget Board be requested to present immediately for the Legislature's consideration, in summary form, an appropriation bill that would be within the anticipated revenue for the next biennium.

The resolution was read.

Senator Willis offered the following amendment to the resolution:

Amend Fly resolution by deleting the period at the end of the last paragraph and adding the following:

"and that the Legislative Budget Board also itemize all State services now provided needy old people, needy blind, dependent children, totally disabled persons, retarded children, blind children, State roads, the judiciary, State colleges, State employees, and all other State services that would be deleted and stopped if said bill is passed."

The amendment was adopted.

The resolution as amended was then adopted.

Record of Votes

Senators Herring, Kazen, Smith, Rogers, Willis, Krueger, Lane, Hazlewood, Owen, Fuller, Hudson and Martin asked to be recorded as voting "Nay" on the adoption of the above resolution.

Senator Parkhouse asked to be recorded as voting "Yea" on the adoption of the above resolution.

Reports of Standing Committee

Senator Weinert by unanimous consent submitted the following reports:

Austin, Texas,
June 9, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred S. B. No. 16, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WEINERT, Chairman.

Austin, Texas,
June 9, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred S. B. No. 15 have had the same under consideration, and we are instructed to report it back to the Sen-

ate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,
June 9, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred S. B. No. 11, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WEINERT, Chairman.

Senate Resolution 91

Senator Hardeman offered the following resolution:

Whereas, Miss MariBen Ramsey, the daughter of the popular Lieutenant Governor of Texas, the distinguished President of the Senate and Mrs. Ben Ramsey, was born to these proud parents on June 8, 1959, in Austin; and

Whereas, This charming couple have two other daughters, namely, Rita Rhea and Ann, who together with little MariBen have and will continue to add delight to their fond parents and others with whom they associate; and

Whereas, It is the desire of the Senate to name this charming and youngest member of Governor and Mrs. Ramsey's family as the "Princess of the Senate" and have her photograph included in the block picture of the Senate; now, therefore, be it

Resolved by the Senate, That Miss MariBen Ramsey be and she is hereby chosen and designated as "Princess of the Senate" and that her photograph be included in the block picture of the Senate and that her proud parents and big sisters be congratulated on her arrival.

HARDEMAN

Aikin, Baker, Bradshaw, Colson, Crump, Dies, Fly, Fuller, Gonzalez, Hazlewood, Herring, Hudson, Kazen, Krueger, Lane, Martin, Moffett, Moore, Owen, Parkhouse, Phillips, Ratliff, Reagan, Roberts, Rogers, Secrest, Smith, Weinert, Willis, Wood.

The resolution was read.

On motion of Senator Owen and by unanimous consent the names of the

Senators were added to the resolution as signers thereof.

The resolution was then adopted.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
June 9, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 26, A bill to be entitled "An Act amending Sections 2 and 4 of Chapter 237, Acts 1927, Fortieth Legislature, authorizing the governing boards of State educational institutions to make and collect laboratory charges, and 'breakage' or loss deposits; defining and authorizing student service fees to be collected from students enrolled in such institutions; regulating the custody and expenditure of moneys collected through student service fees; providing an effective date; providing for severability; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Concurrent Resolution 21 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 21, In memory of Dr. O. M. Marchman.

The resolution was read and was adopted by a rising vote of the Senate.

Resolution Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled resolution:

S. C. R. No. 6, In memory of Mr. Ben E. Bradford.

Senate Bill 17 on First Reading

By unanimous consent the following bill was introduced, read first time and referred to the Committee indicated:

By Senator Ratliff:

S. B. No. 17, A bill to be entitled "An Act amending House Bill 1, Page 588, Chapter 316, Acts, Fifty-first Legislature, Regular Session, 1949; defining the duties and responsibilities of the Board for Texas State Hospitals and Special Schools; saving certain rights; repealing certain statutes and laws; and declaring an emergency."

To the Committee on State Affairs.

Senate Resolution 73

Senator Roberts asked unanimous consent to take up for consideration at this time, S. R. No. 73 introduced on Friday, June 5, 1959, and held for further consideration.

The resolution was read.

Senator Aikin offered the following amendment to the resolution:

Amend S. R. 73, by striking out the word "investigate" wherever it appears and insert in lieu thereof the word "study."

The amendment was adopted.

Senator Fuller offered the following amendment to the resolution:

Amend S. R. No. 73 to strike out the following words "the power to compel the attendance of witnesses, administer oaths, and compel the presentation before it of any and all records of State Departments, agencies, and institutions under investigation."

The amendment was read.

On motion of Senator Roberts the amendment to the resolution was tabled.

The resolution as amended was then adopted.

Record of Votes

Senators Hardeman and Fuller asked to be recorded as voting "Nay" on the adoption of the above resolution.

Committee Substitute House Bill 7 on Second Reading

The President laid before the Senate on its second reading and passage to third reading the following bill:

C. S. H. B. No. 7, A bill to be en-

titled "An Act providing additional revenue for the support of State government; amending Subsection (1) of Section 1, of Main Section 1 of Chapter 269, Acts of the Forty-ninth Legislature, Regular Session, 1945, as amended (compiled as Section 1(1) of Article 7047b, Vernon's Annotated Civil Statutes of Texas), relating to a tax on the production of natural gas; amending Sections 1, 2 and 6 of Article VI of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (compiled as Sections 1, 2 and 6 of Article 7047k, Vernon's Annotated Civil Statutes of Texas), relating to a tax on the sale of motor vehicles; amending Subsection (a) of Section 1 of Chapter 241, Acts of the Forty-fourth Legislature, 1935, as amended, and Subsection (a) of Section 2½ of Chapter 241, Acts of the Forty-fourth Legislature, 1935, as added by Chapter 404, Acts of the Fifty-fourth Legislature, Regular Session, 1955, relating to an additional tax on cigarettes; adding a new Section 3C to Chapter 241, Acts of the Forty-fourth Legislature, Regular Session, 1935, as amended, relating to payment for stamps and meter settings in connection with the cigarette tax; amending Article 7060 of the Revised Civil Statutes of Texas, 1925, as amended, relating to an occupation tax on the gross receipts of gas, electric light, power or water works; repealing Section 1 of Article V of Chapter 2, Acts of the Fifty-first Legislature, First Called Session, 1950 (compiled as Article 7060½ of Vernon's Annotated Civil Statutes of Texas); amending Article 7070 of the Revised Civil Statutes of Texas, 1925, as amended, relating to an occupation tax on the gross receipts of telephone companies; repealing Section 1 of Article IV of Chapter 2, Acts of the Fifty-first Legislature, First Called Session, 1950 (compiled as Article 7070a of Vernon's Annotated Civil Statutes of Texas); amending subsection (a) of Article 7059 of the Revised Civil Statutes of Texas, 1925, as amended, relating to an occupation tax on the gross receipts of telegraph companies; amending Section 21 of Article 1, Chapter 467, Acts of the Forty-fourth Legislature, Second Called Session, 1935, as amended, relating to a tax on distilled spirits and wines; levying a tax on the first sale, distribution, use or consumption within this State of cigars and tobacco

products, and providing for administration and enforcement; amending Section (1) and Section (3) of Article 7084 of the Revised Civil Statutes of Texas, 1925, as amended, relating to a corporate franchise tax; amending Section 1 of Article III, of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (codified as Article 7047 (40b), Section 1, Vernon's Annotated Civil Statutes of Texas), relating to an occupation tax on the production of sulphur; amending Subsection 3 of Section 6 of Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session, 1936, as amended (compiled as Article 7047a-19, Paragraph (3) of Vernon's Annotated Civil Statutes of Texas), relating to a tax on entertainment admissions; levying an excise tax upon the use of special fuels for the propulsion of motor vehicles upon the public highways of this State, providing for administration and enforcement, providing for refunds in certain cases and making allocations; amending Section 14a of Article XVII of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended by Section 3 of Article II of Chapter 404, Acts of the Fifty-fourth Legislature, Regular Session, 1955 (compiled as Article 7065b-14a of Vernon's Annotated Civil Statutes of Texas), relating to refunds of the motor fuel tax to certain transit companies; amending Section 26 and Section 27 of Article XVII of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as added by Section 3 of Article II of Chapter 404, Acts of the Fifty-fourth Legislature, 1955, relating to the administration of the motor fuel tax; repealing Chapter 35, Acts of the Forty-first Legislature, Fifth Called Session, 1930 (compiled as Section 22a of Article 7047 of Vernon's Annotated Civil Statutes of Texas); repealing Subsections (b), (c), (d) and (h) of Section 1, and Section 14 of Article XVII of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (compiled respectively as Subsections (b), (c), (d) and (h) of Article 7065b-1 and as Article 7065b-14 of Vernon's Annotated Civil Statutes of Texas); providing for allocation of revenues; providing for applicability of present tax; providing for severability; providing for appropriations by the Legislature for funds allocated for ad-

ministration; repealing laws in conflict; and declaring an emergency."

The bill was read the second time.

Question—Shall C. S. H. B. No. 7 be passed to third reading.

Recess

On motion of Senator Hardeman the Senate at 12:01 o'clock p.m. took recess until 2:30 o'clock p.m. today.

After Recess

The President called the Senate to order at 2:30 o'clock p.m. today.

Senate Bill 18 on First Reading

By unanimous consent the following bill was introduced, read first time and referred to the committee indicated:

By Senator Ratliff:

S. B. No. 18, A bill to be entitled "An Act authorizing and providing for the creation and operation of conservation and reclamation districts under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as Sanitation Districts, providing for the governing body of such Districts; prescribing the rights, powers, privileges, and duties of such Districts and governing bodies, providing for the addition of territory and lands to any such Districts; containing other provisions relating to the subject; providing that this Act shall be liberally construed; providing a severability clause; and declaring an emergency."

To the Committee on Water and Conservation.

Message from the House

Hall of the House of Representatives
Austin, Texas,
June 9, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 8, A bill to be entitled "An Act amending Subsections (1), (2), and (4) of Section 2, Article XX of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session,

as amended, changing the amounts to be allocated from the Clearance Fund to the Blind Assistance Fund, the Children's Assistance Fund, and the Old Age Assistance Fund and allowing certain credits from the first revenues collected to be deposited to these funds; fixing the operative date of the amendment; and declaring an emergency."

The House has refused to Engross H. B. No. 6:

H. B. No. 6, A bill to be entitled "An Act to amend Title 53, Revised Civil Statutes of Texas, 1925, relating to escheat, by adding Article 3272a providing for the making of reports by persons holding personal property subject to escheat under Article 3272, for examination of records, for penalties, and other related procedure and purposes; amending Article 3273, Revised Civil Statutes of Texas, 1925, relating to petition for escheat, officials authorized to act, contents and procedure, and other related purposes, amending Article 3284, Revised Civil Statutes of Texas, 1925, by adding the words 'Attorney General'; and adding Article 3289-1, providing for the disposition of abandoned money and intangible personal property, and providing for the procedures with respect thereto, including procedures for the custody, protection, reporting and ultimate escheat of such property to the State of Texas; providing procedures for the filing of claims by the true owners of such abandoned money and intangible personal property and the recovery thereof; creating the Escheat Expense Revolving Fund; providing a severability clause; and declaring an emergency."

H. C. R. No. 6, Granting permission to Tom Hawkins et al. to sue the State of Texas and the State Highway Department.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Leave of Absence

Senator Secrest was granted leave of absence for today on account of important business on motion of Senator Herring.

Committee Substitute House Bill 7 on Second Reading

The Senate resumed consideration

of the pending business, same being C. S. H. B. No. 7 on its second reading and passage to third reading (the bill having been read the second time this morning).

Question—Shall C. S. H. B. No. 7 be passed to third reading?

Senator Herring offered the following amendment to the bill:

Amend the Committee Substitute for House Bill 7 by adding a new article to be known as Article IA, reading as follows:

Section 1.01. (1) In addition to the occupation tax on the producers of natural gas provided in Article I hereof, there is hereby levied an occupation tax on the occupation or privilege of obtaining the production of Dedicated Gas within this state, and on the business or occupation of producing such gas, to be known as the "Severance Beneficiary Tax," and to be computed as follows:

The rate of said tax shall be one per cent (1%) of the market value of the gas as and when produced.

Provided, however, that the amount of the tax on sweet and sour gas shall never be less than 121/1500 of One Cent (1c) per one thousand (1,000) cubic feet.

In calculating the tax herein levied, there shall be excluded; (1) gas injected into the earth in this State, unless sold for such purpose; (2) gas produced from oil wells with oil and lawfully vented or flared; (3) gas used for lifting oil unless sold for such purposes, and (4) gas used for irrigation purposes for agriculture.

(2) The market value of gas subject to the tax hereby levied shall be the value thereof at the mouth of the well except in cases where liquid hydrocarbons are extracted or recovered therefrom in this State, in which event the market value shall be the value of the residue gas remaining after such extraction or removal and no additional tax on liquid hydrocarbons extracted or recovered from gas is levied by this Act.

(3) The tax hereby levied is an occupation tax on the occupation or privilege of obtaining the production of "Dedicated Gas" and on the business or occupation of producing such gas as a "severance beneficiary," as these terms are defined herein.

(4) The tax hereby levied shall be

a liability of the producer of gas, but if produced for or sold to a severance beneficiary other than the producer, the tax shall be paid by the severance beneficiary. The liability of the producer shall end only upon payment of the tax by the severance beneficiary, and until such time they shall be jointly liable for payment; provided, however, that on gas sold to a severance beneficiary and reported properly to the Comptroller of Public Accounts of Texas, the producer shall never be required to make such payments unless the severance beneficiary fails to pay the tax or is held by final court order not to be liable for such payment. In no event shall the severance beneficiary deduct, charge, or collect the tax hereby levied from his payments to the producer, and no contract or agreement heretofore or hereafter made shall be interpreted as requiring the producer to pay any portion of the tax which is the liability of the severance beneficiary under the provisions of this Act. It is hereby declared to be against the public policy of this State, and to contribute to economic and actual waste, and to be an unlawful limitation upon the conservation and taxing powers of the State of Texas, for any contract to require the producer to pay the severance beneficiary tax hereby levied when there is a severance beneficiary as defined herein other than the producer himself; it being the intention of this Act that the producer shall be required to pay the tax hereby levied only if the gas is produced for his own use or independent sale and not under any prior contract to produce for sale to another, or if the severance beneficiary is declared by final court judgment not to be liable for the tax hereby levied. It shall be the duty of each producer to keep accurate records in Texas of all gas produced and to make monthly reports under oath as hereinafter provided.

(5) The first purchaser of gas shall pay the tax on gas purchased, and unless he is the severance beneficiary, shall deduct the tax so paid from the payment due the producer making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Such monies so deducted from payments due for the payment of this tax shall be held by the purchaser in trust for the use and benefit of the State of Texas and

shall not be commingled with any other funds held by such said purchaser, and shall be remitted to the State Treasurer in accordance with the terms and provisions of this Act; and it shall be the duty of each such purchaser to keep accurate records in Texas of all such gas purchased or obtained as hereinafter provided and to make and deliver to the Comptroller verified monthly reports thereof.

(6) The tax herein levied shall be due and payable at the office of the Comptroller at Austin on the last day of the calendar month, based on the amount of gas produced and saved during the preceding calendar month, and on or before said date each producer and severance beneficiary and first purchaser shall make and deliver to the Comptroller a verified report on forms prescribed by the Comptroller showing the gross amount of gas produced and purchased, less the exclusions and at the pressure base set out herein, upon which the tax herein levied accrues, together with details as to amounts of gas, from what leases said gas was produced, and the correct name and address of the severance beneficiary, and first purchaser and such other information as the Comptroller may desire, such reports to be accompanied by legal tender or cashier's check payable to the State Treasurer for the proper amount of taxes herein levied.

(7) Provided, that unless such payment of tax on all gas produced during any month or fractional part thereof shall be made on or before the date due as hereinabove specified, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

Section 1.02. (1) For the purpose of this Act, "producer" shall mean any person (other than a non-operating royalty owned) owning, controlling, managing, or leasing any gas well or land producing gas, and any person who produces in any manner any gas by taking it from the earth or waters in this State.

(2) "First Purchaser" shall mean any person purchasing gas from the producer.

(3) "Dedicated Gas" shall include all gas withdrawn from the lands or

waters of this State for the use and benefit of a severance beneficiary.

(4) "Severance Beneficiary" shall mean any person for whose use and benefit gas is withdrawn from the land or waters of this State. Where a contract in writing confers upon one person the prior right to take title to gas produced from particular lands, leases or reservoirs in this State and other persons are obligated to maintain and operate wells, gathering or dehydration facilities or to process or treat such gas so as to make delivery thereof as required by such contract, it shall be conclusively presumed (i) that by such contract gas in place under lands or leases or within such reservoirs has been pledged, dedicated and set apart to satisfy such contract and (ii) that any gas which is delivered and accepted under such contract has been withdrawn from the lands and waters of this State for the use and benefit of the person taking title to such gas by virtue of such contract. If there be more than one such contract covering the same gas, the tax hereby levied shall be the obligation of the person who ultimately takes title to the gas in this State by virtue of such contracts. In all other instances, it shall be conclusively presumed that gas when withdrawn from the lands and waters of this State is withdrawn for the use and benefit of the person taking it from the land or waters in this State and having the original possessory right thereto as and when the same is produced.

(5) "Gas" shall mean natural and casinghead gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate, and/or condensate, or other produce.

(6) The term "sweet gas" shall mean all natural gas except sour gas and casinghead gas.

(7) The term "sour gas" shall mean any natural gas containing more than one and one-half (1½) grains of hydrogen sulphide per hundred (100) cubic feet, or more than thirty (30) grains of total sulphur per one hundred (100) cubic feet.

(8) The term "casinghead gas" shall mean any gas and/or vapor indigenous to an oil stratum and produced from such stratum with oil.

(9) "Report" shall mean any report required to be furnished in this Act

or that may be required by the Comptroller in the administration of its provisions.

(10) "Person" shall include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as trustees acting under such declarations of trust.

(11) "Production" or "total gas produced" shall mean the total gross amount of gas produced. The tax imposed by this Act shall be measured or determined by meter readings showing one hundred (100) per cent of the full volume expressed in cubic feet.

(12) For the purpose of this Act, the term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas (including natural and casinghead) contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws, corrected for deviation.

(13) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

Section 1.03. (1) When it shall appear that a taxpayer to whom the provisions of this Act shall apply has erroneously paid more taxes than were due during any taxpaying period either on account of a mistake of fact or law, it shall be the duty of the State Comptroller to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid.

(2) The failure of a severance beneficiary who is not the producer, or of a first purchaser, to pay the severance beneficiary tax shall not relieve the producer from the payment of same, nor shall it relieve any subsequent purchaser from the payment of same, and it shall be the duty of every person purchasing gas produced in Texas to satisfy himself or itself that the tax on said gas has

been or will be paid by the person primarily liable therefor.

(3) The payment of the tax levied by this Act may be accompanied by written protest, and the taxpayer shall have the right to file suit for the recovery thereof, as provided in Sections 1, 2 and 2(a) of Article 7057b of Vernon's Civil Statutes. The money so paid to the Comptroller under protest shall be transmitted to the State Treasurer and paid into the proper funds as provided in Section 8.01 of this Act. Such payments shall not be subject to the provisions of Section 3, 4, 5 and 6 of Article 7057b of Vernon's Civil Statutes.

Section 1.04. The Comptroller shall employ auditors and/or other technical assistants for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Act, and any other premises necessary in determining the correct tax liability, and to examine, or cause to be examined, any books, or records of any person, subject to a tax under this Act, and to secure any other information directly or indirectly concerned in the enforcement of this Act, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Act, which shall have the full force and effect of law. Before any division or allotment of the occupation tax collected under the provisions of this Act is made, one-half ($\frac{1}{2}$) of one (1) per cent of the gross amount of said tax shall be set aside in the Treasury for the use of the Comptroller in the administration and enforcement of the provisions of this Act; and so much of the said proceeds of one-half ($\frac{1}{2}$) of one (1) per cent of the occupation tax paid monthly as may be needed in such administration and enforcement is hereby allocated for such purpose, subject however to appropriation by the Legislature.

Section 1.05. In the event any severance beneficiary or first purchaser of gas in this State shall become delinquent in the payment of the proper taxes herein imposed, or fails to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such persons from producing and/or purchasing

gas until the delinquent tax is paid or said reports filed, and the venue of any such suit for injunction is hereby fixed in Travis County.

Section 1.06. Severance Beneficiaries, first purchasers and producers shall be subject to a penalty of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for failure or omission to keep the records required herein or for the violation of any of the other provisions hereof, and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties and interest on all property and equipment used by a severance beneficiary or first purchaser of gas in his business of producing gas or purchasing gas, and if any severance beneficiary or first purchaser of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the severance beneficiary and first purchaser of gas shall be liable, as additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in the Natural and Casinghead Gas Audit Fund in the State Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purposes, and all of said funds to be placed in said Natural and Casinghead Gas Audit Fund are hereby allocated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County.

Section 1.07. (1) If any severance beneficiary or first producer of gas fails or refuses to pay any tax, penalty, or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such severance beneficiary or first purchaser or representative of said

severance beneficiary or purchaser, or a certified copy thereof certified to by the Comptroller of Public Accounts showing the amount of gas produced on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said severance beneficiary or purchaser when filed and sworn to by such representative as being made from the records of said severance beneficiary or first purchaser, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown; provided further, that such report or audit may be admitted in evidence only against the party by or from whom it was made.

(2) In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said severance beneficiary or first purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit was past due and unpaid, and that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

(3) On notice from the State Comptroller, it shall be unlawful for any person to produce or remove any gas from any lease in this State whenever the severance beneficiary, first purchaser or producer has failed to file reports as required under the provisions of this Act.

(4) Whenever any lease producing gas changes hands, it shall be the duty of the owner or operator of said lease to note on his last report that said lease has been sold or transferred, showing the effective date of said change and the name and address of the person who will operate said lease and be responsible for the filing of reports provided for in this Act. It further shall be the duty of the new owner or operator of said lease

to note on his first report that said lease has been acquired, showing the effective date of said change and the name and address of the person formerly owning and/or operating said lease.

On motion of Senator Herring and by unanimous consent the amendment was not read but was explained.

Senator Hazlewood moved to table the amendment by Senator Herring.

Question on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—19

Baker	Krueger
Bradshaw	Lane
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Hardeman	Smith
Hazlewood	Weinert
Hudson	Wood
Kazen	

Nays—11

Aikin	Moore
Colson	Owen
Gonzalez	Roberts
Herring	Rogers
Martin	Willis
Moffett	

Absent—Excused

Secrest

Senator Herring offered the following amendment to the bill:

Amend the Committee Substitute for House Bill 7 by striking out the language in Article VII and inserting in lieu thereof the following:

"Section 7.01. That Section (1) of Article 7084 of the Revised Civil Statutes of Texas, 1925, as last amended by Section I of Article IV of Chapter 404, H. B. No. 660, Acts of the Fifty-fourth Legislature, Regular Session, 1955, is hereby amended to read as follows:

Article 7084. Amount of tax.

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, or doing business in Texas, shall, on or

before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon the stated capital, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures (outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus), the sum of which for the purposes of this Act is herein defined and hereafter referred to as 'taxable capital,' which tax shall be computed on the basis of Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof; that such tax shall not be less than Twenty-five Dollars (\$25) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value, for county ad valorem tax purposes, of the property owned by the corporation in this State. Stated capital as applied to corporations without stated capital shall mean the net assets of such corporation. As used in this Act, the phrase 'stated capital' shall have the same meaning as defined in Article 1.02 of the Texas Business Corporation Act. In computing the annual franchise tax provided for herein, such computation shall be made upon the entire taxable capital of any corporation which does not maintain a regular place of business outside this State other than a statutory office. In the case of any corporation which maintains a regular place of business outside this State other than a statutory office, the portion of its entire taxable capital to be used as a measure of the tax imposed and levied herein shall be computed and determined by multiplying such entire taxable capital by an allocation factor which shall be the arithmetical aver-

age of the following two (2) ratios computed in (a) and (b) or either of them which may be applicable, separately computed:

(a) Property.—The ratio of the value of all real estate and tangible personal property owned and used by such corporation in this State on the last day of the preceding fiscal year of such corporation to the value of the entire real estate and tangible personal property owned and used by it everywhere on the last day of the preceding fiscal year.

(b) Gross receipts.—The ratio of the amount of its gross receipts from business attributable to this State during the period covered by the report to the gross receipts of the corporation from business done everywhere during the period covered by the report. Provided that for purposes of this subsection gross receipts attributable to Texas shall include receipts arising during such period from:

(1) Sale of its tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipments are made to points within this State;

(2) Sales of tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipment is made to points outside the State and sales of tangible personal property located without the State at the time of the receipt of or appropriation to the orders where shipment is made to points within the State, but only to the extent of fifty per cent (50%) of the receipts from such sales;

(3) Sales of any such property not located at the time of the receipt of or appropriation to the orders at any permanent or continuous place of business maintained by the corporation without the State, where the orders were received or accepted within the State, but only to the extent of fifty per cent (50%) of the receipts from such sales, provided for the purposes herein, an order shall be deemed received or accepted within the State if it has been received by an employee, agent, agency, or independent contractor chiefly situated at, connected with, by contract or otherwise, or sent out from a permanent or continuous place of business of the corporation within the State;

(4) Services performed within the State;

(5) Rentals from property situated, and royalties from the use of patents or copy-rights, within the State;

(6) and all other business receipts earned within the State.

If only one of the two ratios is applicable, that part of the entire taxable capital apportioned or attributed to business transacted within this State shall be determined solely by that rule.

It is further provided that there shall be a presumption that the appropriate allocation formula reasonably attributes to this State a portion of the corporation's taxable capital as herein defined which is reasonably attributable to its business transacted in this State, and no corporation shall use any alternative formula or method other than as provided herein. Any report in which any alternative formula or method is used other than the applicable allocation formula prescribed herein shall not be a lawful report.

The report required by Article 7089 of the Revised Civil Statutes of Texas, 1925, as amended, of all corporations required to pay an annual franchise tax, shall, in addition to the information required by said Article 7089 include, as applicable under this Act, the value of all real estate and tangible personal property owned and used by the corporation in this State on the last day of the preceding fiscal year of the corporation and the value of the entire real estate and tangible personal property owned and used by the corporation everywhere on the last day of the preceding fiscal year, and the total gross receipts from business attributable to this State during the period covered by the report together with gross receipts from business done everywhere computed in accordance with the provisions of this Act.

Section 7.02. That Section (3) of Article 7084 of the Revised Civil Statutes of Texas, 1925, as last amended by Section 1 of Article IV of Chapter 404, H. B. No. 660, Acts of the 54th Legislature, Regular Session, 1955, is hereby amended to read as follows:

(3) Except as provided in preceding Subsection (2), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility as defined by the laws of Texas whose

rates or services are regulated, or subject to a regulation in whole or in part, by law, shall pay, in addition to all other taxes, a franchise tax as provided in this Act, except that the same shall be based upon the stated capital, surplus and undivided profits, instead of the gross assets; provided further that the rate and computation of said tax shall be in accordance with Section I hereof.

For the purpose of computing the tax of corporations issuing shares without par value, such shares shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such shares shall furnish the Secretary of State with the same information now required of domestic corporations issuing such shares.

The tax levied herein shall in no case be computed on a sum less than the assessed value, for county ad valorem tax purposes, of the property owned by the corporation in this State.

Section 7.03. This Act shall be applicable to all franchise taxes payable after the effective date of this Act and is cumulative of all other laws of this State.

Section 7.04. The Secretary of State shall have authority to promulgate such rules and regulations as he may deem necessary for the administration of this Act and the collection of the tax levied hereby; he is further authorized and empowered to require supplements to reports now required by law in lieu of, or in addition to, any report called for by this Act, and to combine and require any reports necessary in connection with the reporting or collection of franchise taxes."

On motion of Senator Herring and by unanimous consent the amendment was not read but was explained.

Pending discussion by Senator Herring of his amendment, Senator Parkhouse occupied the Chair.

(President in the Chair.)

Senator Phillips moved to table the amendment.

Question on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—22

Baker	Moffett
Bradshaw	Owen
Crump	Parkhouse
Fly	Phillips
Fuller	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Wood

Nays—9

Aikin	Martin
Colson	Moore
Dies	Rogers
Gonzalez	Willis
Herring	

Senator Gonzalez offered the following amendment to the bill:

Amend Committee Substitute for H. B. No. 7 by adding the words "or any municipally owned and operated transit company" on line 17, page 17, immediately after the word "characteristics;"

The amendment was read and was adopted.

Record of Vote

Senator Colson asked to be recorded as voting "Nay" on the adoption of the above amendment.

Senator Parkhouse offered the following amendment to the bill:

Amend Committee Substitute for House Bill No. 7 by striking out all of Article VII.

The amendment was read.

On motion of Senator Herring the amendment was tabled.

Record of Vote

Senator Parkhouse asked to be recorded as voting "Nay" on the motion to table the above amendment.

Question—Shall C. S. H. B. No. 7 be passed to third reading?

Recess

On motion of Senator Reagan the Senate at 4:55 o'clock p.m. took recess until 10:00 o'clock a.m. tomorrow.

Record of Vote

Senators Colson and Moffett asked to be recorded as voting "Nay" on the motion to recess.